

REMARKS/ARGUMENTS

The Office Action mailed November 24, 2004 has been reviewed and carefully considered. Claims 6, 8, and 11 are canceled. Claims 1 and 7 have been amended. Claims 1-5, 7, 9-10, and 12 are pending in this application, with claim 1 being the only independent claim. Applicant's representative and Examiner Van Doren conducted an interview on February 24, 2005. The Examiner's time and consideration are greatly appreciated. The subject matter of the interview is incorporated in the following remarks. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

In the Office Action mailed November 24, 2004, claims 1-3, 7, and 9-12 stand rejected under 35 U.S.C. §102(a) as anticipated by a product that the Examiner refers to as "Rio Portable MP3 player bundled with MusicMatch Jukebox". The Examiner lists four references labeled A-D to define what the Examiner means by "Rio Portable MP3 player bundled with MusicMatch Jukebox". References A-D are discussed in more detail below.

Claims 4-5 stand rejected under 35 U.S.C. §103 as unpatentable over the "Rio Portable MP3 player bundled with MusicMatch Jukebox" in view of U.S. Patent No. 6,208,335 (Gordon).

Claim 9 stand rejected under 35 U.S.C. §103 as unpatentable over the "Rio Portable MP3 player bundled with MusicMatch Jukebox".

Independent claim 1 is amended to emphasize that the claimed processor is arranged on board the portable media player. Independent claim 1 further recites that the processor is arranged "for receiving the signal from said user-manipulable control, and for associating the user-supplied rating indicated by the signal with the currently played media content". Accordingly,

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the claimed invention enables a user to input a rating to the processor on board the portable media player, which processor associates the rating with the currently played media content.

References A-D disclose two separate devices: a computer running MusicMatch software and a Rio Portable MP3 player. The Rio player is connectable to the computer running the MusicMatch Jukebox software for downloading playlists of songs from the computer from lists generated by the MusicMatch Jukebox software.

Reference A discloses MusicMatch Jukebox, which is a software product that allows a user to record CDs or download music from the Internet onto a computer running the MusicMatch Jukebox software (page 1, section 1). On page 2, section 3, reference A discloses that the digital track may be stored with a preference rating. There is no further disclosure as to how the preference rating is used or may be used. Reference B is a press release for MusicMatch Jukebox which lists many features of the MusicMatch Jukebox but does not further describe the preference rating. Reference C is yet another web page describing MusicMatch. The third page of reference C states that the Rio Portable MP3 Player is bundled with MusicMatch.

Reference D discloses the Rio Portable MP3 player. As disclosed on pages 9-10 of Reference D and on page 3 of Reference C, a user records or downloads music using MusicMatch and saves the recorded or downloaded songs on the computer running the MusicMatch software. The user then selects which of the saved songs to save to the Rio Player (see especially the last three lines on page 3 of Reference C which states "Once you've created the perfect MP3 play list for the mood, save it to the Rio player and listen to exactly the music you want wherever you go").

Applicants argued in a previous amendment that the present application relates to a portable device in which a processor plays selections from the stored media based on user

ratings. The Examiner indicated in the Office Action that the claims were written broadly enough to interpret the processor as being arranged in a separate device that is connected to the memory. One of the reasons stated by the Examiner is that the term "downloading" connotes a transfer from a host computer to one's own computer. Independent claim 1 is now amended to change the term "downloading" to --retrieving-- and to further clarify that the recited processor and the memory are arranged in the portable media player. The claimed invention allows a user of the portable media player to input a rating to the processor in the portable media player and save the rating in the memory while the portable media player is disconnected from any other processor. As stated above, the "Rio Portable MP3 player bundled with MusicMatch Jukebox" includes a separate computer for running MusicMatch. Although the references indicate the MusicMatch allows a preference rating, there is no teaching or suggestion that the user can input the preference rating directly to a processor on the Rio Portable MP3 Player. Accordingly, the "Rio Portable MP3 player bundled with MusicMatch Jukebox" fails to disclose, teach or suggest "portable media player having a memory device and a processor arranged in the portable media player", "said processor being operatively connected to said user-manipulable control and to said memory device for selectively retrieving the stored media contents from said memory device and playing the stored media contents at the portable media player, for receiving the signal from said user-manipulable control, and for associating the user-supplied rating indicated by the signal with the currently played media content", as expressly recited in independent claim 1.

In view of the above amendments and remarks, it is respectfully submitted that independent claim 1 is allowable over the "Rio Portable MP3 player bundled with MusicMatch Jukebox".

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Dependent claims 2-7, 9-10 and 12, each being dependent on independent claim 1 are allowable for at least the same reasons as is independent claim 1.

Dependent claim 7 is further amended to clarify that the user-manipulable control is incorporated in a headphone cord for headphones which plugs into the portable media player. Support for this limitations is disclosed at page 7, lines 1-5 of the present specification. The "Rio Portable MP3 player bundled with MusicMatch Jukebox" fails to disclose that preferences can be input by a control incorporated in a headphone cord.


In view of the above amendments and remarks, the application is now deemed to be in condition for allowance and notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

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Dated: February 24, 2005

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